IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4551 OF 2006

Babanrao Kisanrao Jagtap .... Petitioner
Vs.
The Commissioner of Sugar .... Respondents
& Ors.

Mr.N.N. Bhadrashete for the Petitioner
Mr. A.H. Palekar, AGP for the State

CORAM : R.M. SAVANT, J.
DATE : 13TH JUNE, 2007

P.C.

1) Rule with consent of the parties, returnable forthwith. Heard.

2) This petition impugns the Notice dtd. 18/4/2006, by which a demand is sought to be raised against the petitioner herein, pursuant to the order passed under Section 88 of the Maharashtra Co-operative Society's Act, 1960. The petitioner was an expert Director on the Board of the respondent no. 4 Sugar Factory. An enquiry was conducted under Section 88 of the said Act by the respondent no. 2, in which enquiry, certain directors were indicted and the amounts to be recovered from each of them mentioned therein. The petitioner's name does not appear in the said indicted persons. Notwithstanding the same, the demand dtd. 18/4/2006 is sought to be made against

the petitioner.

3) In almost identical facts in Writ Petition no. 9437 of 2005 and Writ Petition 8884 of 2004, this Court has set aside the said order dtd. 18/4/2006 and remanded the matter back to the concerned authority for consideration. In the instant case, the learned counsel for the petitioner contended that petitioners name does not even appear in the said Order passed under Section 88 and therefore the petitioner cannot be proceeded with, this was apart from the fact that the principles of natural justice have been violated while passing the said order.

4) In that view of the matter, the impugned order dtd. 18/4/2006 in so far as the petitioner is concerned is set aside and the matter is remanded back to the concerned authority for a decision afresh prior to issuance of a demand against the petitioner. The petitioner would be entitled to agitate such points as are permissible in law.

5) Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

(R.M. SAVANT, J.)